



Texas Department of State  
Health Services

## TEXAS DEPARTMENT OF STATE HEALTH SERVICES

### DIVISION FOR REGULATORY SERVICES ENVIRONMENTAL AND CONSUMER SAFETY SECTION POLICY, STANDARDS, AND QUALITY ASSURANCE UNIT PUBLIC SANITATION AND RETAIL FOOD SAFETY GROUP

#### PUBLIC SANITATION AND RETAIL FOOD SAFETY GROUP REGULATORY CLARIFICATIONS

**DATE:** July 6, 2016 (Revised: February 21, 2017)

**PSRFSGRC - No. 20**

**SUBJECT: SELLING NON-CHICKEN EGGS (NCE) TO A RETAIL FOOD  
ESTABLISHMENT**

**Applicable Texas Food Establishment Rules (TFER) Sections:**

§228.2 (42) Definition of Egg

§228.62 (a)(1) Approved Source

§228.63(a)(3); §228.63 (a)(7); §228.63 (c) Specifications for receiving

**Question:** Can I sell non-chicken eggs to a retail food establishment?

**Response:** Yes, under the following stipulations:

- A farm may sell non-chicken eggs (NCE) without a license, provided certain labeling and packaging requirements are met and temperature controls are maintained;
- Farms selling non-chicken eggs are considered an "approved source" for purposes of the Texas Food Establishment Rules (TFER);
- If an entity meets the definition of a Food Wholesaler of food products, including non-chicken eggs, they must possess a license as a manufacturer or wholesaler issued by the Texas Department of State Health Services (DSHS); <http://www.dshs.texas.gov/foods/forms.aspx>
- All eggs must be stored at a temperature of 45° Fahrenheit or less; and;
- The egg cartons must be labeled as 'ungraded', contain safe handling instructions, and provide the farmer's or manufacturer/distributor's name and address.

## **Support:**

§228.2 (42) defines an Egg as a 'shell egg of an avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. The definition of an egg does not include a balut, shell egg of reptile species such as an alligator, or an egg product.'

§228.62 (a)(1) requires that all "food shall be obtained from sources that comply with applicable laws and are licensed by the state regulatory authority having jurisdiction over the processing and distribution of the food." The Texas Department of Agriculture (TDA) is the agency in Texas that issues licenses to persons that buy or sell chicken eggs, to persons or facilities that grade, size and class chicken eggs, to chicken egg brokers and to facilities that store, pack or process chicken eggs. The licensing requirements are part of the Egg Law, TAC Title 4, Part 1, Chapter 15.

A non-chicken egg wholesaler/distributor licensed as a manufacturer or wholesaler by DSHS Food Group would meet the requirement in TFER §228.62 (a)(1) relating to Approved Source.

§228.63 (a)(7) Eggs that have not been specifically treated to destroy all viable *Salmonellae* shall be labeled to include safe handling instructions as specified in law, including 21 CFR §101.17(h).

§228.63(a)(3) Raw shell eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 7 degrees Celsius (45 degrees Fahrenheit) or less.

§228.63 (c) Eggs. Eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in 7 CFR 56, Voluntary Grading of Shell Eggs and United States Standards, Grades, and Weight Classes for Shell Eggs, and 9 CFR 590, Inspection of Eggs and Egg Products. The grading requirement is not applicable for non-chicken eggs. Non-chicken eggs shall be received clean and sound.

## **Response To:**

Inquiry from a Quail Egg Farm.

Agree to form and substance:



Christopher Sparks, MPA, R.S.  
Manager  
Public Sanitation and Retail Food Safety Group

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